

**IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

**DENISE HARDY,**

**Plaintiff,**

**vs.**

**MICHAELS STORES, INC.,**

**Defendant.**

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**CIVIL ACTION**

**FILE NO. \_\_\_\_\_**

**DEFENDANT MICHAELS STORES, INC.'S NOTICE OF REMOVAL**

COME NOW, **MICHAELS STORES, INC.**, Defendant in the above-styled civil action, and hereby remove Civil Action File No. 23-C-04480-S2 from the State Court of Gwinnett County to the United States District Court for the Northern District of Georgia, Atlanta Division, pursuant to Fed. R. Civ. P. 81(c) and 28 U.S.C. §§ 1332, 1441 and 1446, and as grounds for its removal state as follows:

**STATEMENT OF THE CASE**

1.

Defendant Michaels Stores, Inc. has been sued in a civil action brought in the State Court of Gwinnett County, which is located within the Atlanta Division of the United States District Court for the Northern District of Georgia. Pursuant to 28 U.S.C. § 1446(a), a true and correct copy of all of the process, pleadings,

orders and documents from the State Court Action have been attached as Defendant Michaels Stores, Inc.’s Exhibit 1 (hereinafter “D-1”).

2.

The present matter is an action for damages for bodily injuries stemming from a May 20, 2022 incident alleged to have occurred at Defendant Michaels Stores, Inc. retail store located at 1977 Scenic Highway North, Unit G, Snellville, GA 30078, (hereinafter “the subject incident”). D-1, Complaint, ¶ 2. Plaintiff makes claims against Defendant Michaels Stores, Inc. for (i) ordinary negligence and (ii) premises liability. *Id.*, Complaint, ¶¶ 4-6.

3.

The Complaint was filed June 28, 2023, in the State Court of Gwinnett County, Civil Action File No. 23-C-04480-S2. *See* D-1, Complaint. Defendant Michaels Stores, Inc. was served with the Summons and Complaint on July 13, 2023.

**DIVERSITY JURISDICTION UNDER 28 U.S.C. § 1332(a)**

4.

Upon information and belief, Plaintiff Denise Hardy is a citizen of the State of Georgia. Defendant Michaels Stores, Inc. is, and was at the time this lawsuit was filed, a corporation organized under the laws of the State of Delaware with its

principal place of business in the State of Texas. *Id.*, Complaint, ¶ 2. Therefore, there is complete diversity of citizenship between the parties.

5.

Plaintiff contends that “as a direct result of said negligence on the part of said Defendant, Plaintiff incurred damages of medical expenses, lost wages, and extensive physical pain and mental anguish.” D-1, Complaint, ¶ 5. Further, Plaintiff has alleged \$77,441.44 in total medical expenses, \$26,460.00 in lost wages and \$24,300.00 in future lost wages post-rotator cuff surgery for \$128,201.44 in total special damages. *Id.*, Complaint, ¶ 6.

6.

In determining whether the requisite \$75,000.00 amount in controversy has been established, jurisdiction “is proper if it is facially apparent from the complaint that the amount in controversy exceeds the jurisdictional requirement.” *Williams v. Best Buy Co., Inc.*, 269 F.3d 1319 (11th Cir. 2001). In the present case, given the damages claimed by Plaintiff, it is facially apparent from Plaintiff’s Complaint that the requisite \$75,000.00 amount in controversy requirement has been met.

**ALL PROCEDURAL REQUIREMENTS  
FOR REMOVAL HAVE BEEN SATISFIED**

7.

This Notice of Removal is filed within 30 days from the date that Defendant Michaels Stores, Inc. has been served with the Summons and Complaint in this matter. Removal is, therefore, timely in accordance with 28 U.S.C. § 1446(b).

8.

Pursuant to 28 U.S.C. 1446(b)(2)(A), “all defendants who have been properly joined and served must join in or consent to the removal of the action.” As such, Defendant Michaels Stores, Inc. expressly consents to the removal of this action and the requirements of 28 U.S.C. § 1446(b)(2)(A) have been met.

**CONCLUSION**

By this Notice of Removal, Defendant Michaels Stores, Inc. does not waive any objections they may have as to service, jurisdiction or venue, or any other defenses or objections they may have to this action. Defendant Michaels Stores, Inc. intends no admission of fact, law or liability by this Notice and expressly reserve all defenses, motions and/or pleas.

WHEREFORE, Defendant Michaels Stores, Inc. prays that the case be removed to the United States District Court for the Northern District of Georgia, Atlanta Division.

This 11<sup>th</sup> day of August, 2023.

**CRUSER, MITCHELL, NOVITZ,  
SANCHEZ, GASTON & ZIMET, LLP**

Meridian II, Suite 2000  
275 Scientific Drive  
Peachtree Corners, GA 30092  
(404) 881-2622  
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[cbryant@cmlawfirm.com](mailto:cbryant@cmlawfirm.com)  
[rcruser@cmlawfirm.com](mailto:rcruser@cmlawfirm.com)

/s/ Candice R. Bryant

---

**CANDICE R. BRYANT**

Georgia Bar No. 807404

**J. ROBB CRUSER**

Georgia Bar No. 199480

*Attorneys for Defendant Michaels Stores,  
Inc.*

**CERTIFICATE OF COMPLIANCE**

Undersigned counsel certify the foregoing document has been prepared with one of the font and point selections (Times New Roman, 14 point) approved by the Court in Local Rule 5.1(C).

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that the undersigned has this day electronically filed the within and foregoing **DEFENDANT MICHAELS STORES, INC.’S NOTICE OF REMOVAL** with the Clerk of Court using the CM/ECF system which will send e-mail notification of such filing to the following attorneys of record:

Clyde E. Rickard  
Jessica C. Nix  
Christopher Sandbach  
**THE LAW OFFICE OF RICKARD, DREW & NIX**  
229 Peachtree Street, N.E., Suite 2420  
Atlanta, GA 30303  
*Counsel for Plaintiff*

This 11<sup>th</sup> day of August, 2023.

**CRUSER, MITCHELL, NOVITZ,  
SANCHEZ, GASTON & ZIMET, LLP**

Meridian II, Suite 2000  
275 Scientific Drive  
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[cbryant@cmlawfirm.com](mailto:cbryant@cmlawfirm.com)  
[rcruser@cmlawfirm.com](mailto:rcruser@cmlawfirm.com)

/s/ Candice R. Bryant  
\_\_\_\_\_  
**CANDICE R. BRYANT**  
Georgia Bar No. 807404  
**J. ROBB CRUSER**  
Georgia Bar No. 199480  
*Attorneys for Defendant Michaels Stores,  
Inc.*

23-C-04480-S2

6/28/2023 11:16 AM  
TIANA P. GARNER, CLERK

IN THE STATE COURT OF GWINNETT COUNTY

STATE OF GEORGIA

**DENISE HARDY**

23-C-04480-S2

CIVIL ACTION

NUMBER: \_\_\_\_\_

PLAINTIFF

VS.

**MICHAELS STORES, INC.**

DEFENDANT

**SUMMONS**

**TO THE ABOVE NAMED DEFENDANT:**

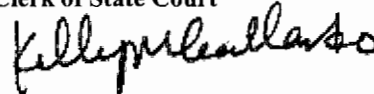
You are hereby summoned and required to file with the Clerk of said court and serve upon the Plaintiff's attorney, whose name and address is:

CHRISTOPHER SANDBACH, LAW OFC OF RICKARD, DREW & NIX  
229 PEACHTREE ST NE STE 2420  
ATLANTA, GA 30303

an answer to the complaint which is herewith served upon you, within 30 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

This \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.  
28th day of June, 2023

Tiana P. Garner  
Clerk of State Court



By \_\_\_\_\_  
Deputy Clerk

**INSTRUCTIONS:** Attach addendum sheet for additional parties if needed, make notation on this sheet if addendum sheet is used.

SC-1 Rev. 2011

**EXHIBIT 1**

IN THE STATE COURT OF GWINNETT COUNTY

STATE OF GEORGIA

DENISE HARDY,	)	
	)	
Plaintiff,	)	
	)	
v.	)	CIVIL ACTION 23-C-04480-S2
	)	
	)	FILE NO. _____
MICHAELS STORES, INC.	)	
	)	
Defendant.	)	
_____	)	

**COMPLAINT**

**COMES NOW** Plaintiff herein and files this Complaint for money damages as follows:

1.

Defendant Michaels Stores, Inc. is a corporation, qualified to do business in the State of Georgia, whose registered agent, Corporation Service Company, has been served with process at 2 Sun Court, Suite 400, Peachtree Corners, GA 30092 and is therefore subject to the jurisdiction and venue of this Court.

2.

On or about May 20, 2022, at the Michael's Store located at 1977 Scenic Highway North, Unit G, Snellville, GA 30078, owned and/or operated by Defendant, Plaintiff Denise Hardy was conducting herself in a safe and prudent manner.

3.

On or about said date, Plaintiff was walking through the store while shopping when she slipped and fell on merchandise that had been left out on the aisle floor.



4.

Plaintiff shows that the aforesaid incident was proximately caused by negligence of Defendant, and said acts of negligence of said individual include, but are not limited to, the following:

- (a) Immediately prior to the aforesaid incident, Defendant owed a duty to maintain the premises open to the public in a safe fashion;
- (b) Immediately prior to the aforesaid incident, Defendant breached the foregoing duty owed to Plaintiff;
- (c) The breach of the Defendants' duty proximately caused the aforementioned incident and;
- (d) Any and all acts of negligence which may be shown at trial due to Defendant having failed to exercise ordinary care under the circumstances as required by O.C.G.A. § 51-1-2.

5.

As a direct result of said negligence on the part of said Defendant, Plaintiff incurred damages of medical expenses, lost wages, and extensive physical pain and mental anguish.

6.

All of the injuries to Plaintiff as stated herein are due to the negligence of the Defendant, and said negligence is the sole, direct, and proximate cause of injuries to the Plaintiff, unmixed with any negligence on the part of the Plaintiff or on the part of any other person. Plaintiff has needed medical treatment due to these injuries as well as lost wages, to wit:

**Medicals**

1) <b>Piedmont Urgent Care – Stone Mountain</b>	\$ 420.58
2) <b>Emory Orthopaedics, Sports &amp; Spine</b>	\$ 6,644.00
3) <b>PT Solutions</b>	\$ 333.00
4) <b>American Health Imaging</b>	\$ 6,675.00
5) <b>AICA Orthopedics</b>	\$ 4,369.00
6) <b>Range of Motion Inc.</b>	\$ 160.04
7) <b>OrthoSquad, LLC</b>	\$ 40.00
8) <b>Emory Hillandale Hospital</b>	\$ 12,063.20
9) <b>Recommended Left Shoulder Rotator Cuff Repair</b>	\$ 42,379.62
10) <b>Post-Surgery Physical Therapy</b>	\$ 4,357.00

**TOTAL MEDICALS** **\$ 77,441.44**

**Lost Wages**

5/23/22 – 9/29/22 (98 days)	\$ 26,460.00
98 days x \$270.00/day	

**Future Lost Wages/Post-Rotator Cuff Surgery**

3 months x \$8,100.00/month	\$ 24,300.00
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**TOTAL SPECIALS** **\$128,201.44**

WHEREFORE, Plaintiff respectfully demands as follows:

- (a) Process issue and Defendant be served with process according to law;
- (b) That a judgment be entered for the Plaintiff and against the Defendant for special damages for past, present and future medical expenses, lost wages, and mileage as may be shown by the evidence at the time of trial;
- (c) That a judgment be entered for the Plaintiff and against the Defendant, for general damages for her past, present and future pain and suffering in an amount as may be determined by the enlightened conscience of the jury;
- (d) Plaintiff have and be awarded a trial by jury; and

- (e) Plaintiff have such other and further relief as this court and jury may deem just and proper under the premises and circumstances.

**THE LAW OFFICE OF RICKARD, DREW & NIX**

By: /s/ Christopher Sandbach

**CLYDE E. RICKARD**

State Bar No. 604625

**JESSICA C. NIX**

State Bar No. 940625

**CHRISTOPHER SANDBACH**

State Bar No. 271112

Attorneys for Plaintiff

229 Peachtree Street, N.E.  
Suite 2420  
Atlanta, Georgia 30303  
(404) 588-1001

Civil Action No.

23-C-04480-82

Date Filed

6-28-2023

Superior Court  
State Court  
Juvenile CourtMagistrate Court  
Probate Court

Georgia,

Awinnett

COUNTY

Attorney's Address

The Law Office of Rickard, Drew & Nix  
Suite 2420  
229 Peachtree Street N.E.  
Atlanta, GA 30303

Plaintiff

VS.

Defendant

Garnishee

Name and Address of Party to be Served.

MICHAELS STORES INC. c/o RA  
Corporation Service Company  
2 SUN COURT SUITE 400  
Peachtree Corners GA 30092

## SHERIFF'S ENTRY OF SERVICE

PERSONAL

I have this day served the defendant \_\_\_\_\_ personally with a copy  
☐ of the within action and summons.

NOTORIOUS

I have this day served the defendant \_\_\_\_\_ by leaving a  
copy of the action and summons at his most notorious place of abode in this County.

☐ Delivered same into hands of \_\_\_\_\_ described as follows:  
age, about \_\_\_\_\_ years; weight \_\_\_\_\_ pounds; height, about \_\_\_\_\_ feet and \_\_\_\_\_ inches, domiciled at the residence of  
defendant.

CORPORATION

Served the defendant Michael's Stores Inc.  
☒ by leaving a copy of the within action and summons with Alisha Smith  
in charge of the office and place of doing business of said Corporation in this County.

TACK &amp; MAIL

☐ I have this day served the above styled affidavit and summons on the defendant(s) by posting a copy of the same to the door of the premises designated in said  
affidavit, and on the same day of such posting by depositing a true copy of same in the United States Mail, First Class in an envelope properly addressed to the  
defendant(s) at the address shown in said summons, with adequate postage affixed thereon containing notice to the defendant(s) to answer said summons at the  
place stated in the summons.

NON EST

☐ Diligent search made and defendant \_\_\_\_\_  
not to be found in the jurisdiction of this Court.

This 13 day of July, 2023.

J. Williams  
DEPUTY

SHERIFF DOCKET \_\_\_\_\_ PAGE \_\_\_\_\_

IN THE STATE COURT OF GWINNETT COUNTY  
STATE OF GEORGIA

DENISE HARDY,

Plaintiff,

v.

MICHAELS STORES, INC.,

Defendant.

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CIVIL ACTION

FILE NO. 23-C-04480-S2

**DEFENDANT MICHAELS STORES, INC.'S ANSWER AND AFFIRMATIVE  
DEFENSES TO PLAINTIFF'S COMPLAINT**

COMES NOW, MICHAELS STORES, INC., Defendant in the above-styled action, and files its Answer and Affirmative Defenses to Plaintiff's Complaint, showing the Court as follows:

**FIRST DEFENSE**

Plaintiff's Complaint fails to state a claim against this Defendant upon which relief can be granted.

**SECOND DEFENSE**

This Defendant shows that Plaintiff's alleged injuries, if any, were the result of Plaintiff's failure to exercise ordinary care.

**THIRD DEFENSE**

This Defendant shows that Plaintiff's alleged damages, if any, were directly caused by Plaintiff's own contributory and comparative negligence.

**FOURTH DEFENSE**

Plaintiff failed to exercise reasonable care for her safety, and such failure was the sole proximate cause of any alleged injuries to Plaintiff.

**FIFTH DEFENSE**

Plaintiff is barred from recovering from this Defendant for the reasons that any such alleged condition was open and obvious such that Plaintiff's knowledge of such condition was either equal to or greater than that of this Defendant.

**SIXTH DEFENSE**

As a next Defense, this Defendant answers the numbered paragraphs of Plaintiff's Complaint as follows:

1.

Defendant admits that it is a corporation, qualified to do business in the State of Georgia, whose registered agent, Corporation Service Company, has been served with process at 2 Sun Court, Suite 400, Peachtree Corners, GA 30092. Defendant denies the remaining allegations contained within Paragraph 1 of Plaintiff's Complaint.

2.

Defendant denies the allegations contained within Paragraph 2 of Plaintiff's Complaint.

3.

Defendant denies as pled the allegations contained within Paragraph 3 of Plaintiff's Complaint.

4.

Defendant denies the allegations contained within Paragraph 4 of Plaintiff's Complaint.

5.

Defendant denies the allegations contained within Paragraph 5 of Plaintiff's Complaint.

6.

Defendant denies the allegations contained within Paragraph 6 of Plaintiff's Complaint.

7.

Defendant denies that Plaintiff is entitled to the relief requested in the “Wherefore” paragraph of Plaintiff’s Complaint.

8.

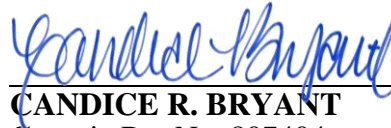
Defendant denies any remaining allegations contained in Plaintiff’s Complaint not previously responded to.

WHEREFORE, having fully answered, Defendant MICHAELS STORES, INC. prays that it be discharged without costs.

**A TRIAL BY A JURY OF TWELVE IS DEMANDED.**

This 11<sup>th</sup> day of August, 2023.

**CRUSER, MITCHELL, NOVITZ,  
SANCHEZ, GASTON & ZIMET, LLP**



---

**CANDICE R. BRYANT**  
Georgia Bar No. 807404  
**J. ROBB CRUSER**  
Georgia Bar No. 199480  
*Counsel for Defendant*

Meridian II, Suite 2000  
275 Scientific Drive  
Peachtree Corners, GA 30092  
(404) 881-2622  
(404) 881-2630 – fax  
[cbryant@cmlawfirm.com](mailto:cbryant@cmlawfirm.com)

IN THE STATE COURT OF GWINNETT COUNTY  
STATE OF GEORGIA

DENISE HARDY,

Plaintiff,

v.

MICHAELS STORES, INC.,

Defendant.

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CIVIL ACTION

FILE NO. 23-C-04480-S2

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that I have this day electronically filed the within and foregoing **DEFENDANT MICHAELS STORES, INC.'S ANSWER AND AFFIRMATIVE DEFENSES TO PLAINTIFF'S COMPLAINT** with the Clerk of the Court via Odyssey e-filing system, which will automatically send electronic notification to the following counsel of record:

Clyde E. Rickard  
Jessica C. Nix  
Christopher Sandbach  
THE LAW OFFICE OF RICKARD, DREW & NIX  
229 Peachtree Street, N.E., Suite 2420  
Atlanta, GA 30303  
*Counsel for Plaintiff*

This 11<sup>th</sup> day of August, 2023.

**CRUSER, MITCHELL, NOVITZ,  
SANCHEZ, GASTON & ZIMET, LLP**



**CANDICE R. BRYANT**  
Georgia Bar No. 807404  
**J. ROBB CRUSER**  
Georgia Bar No. 199480  
*Counsel for Defendant*

Meridian II, Suite 2000  
275 Scientific Drive  
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[cbryant@cmlawfirm.com](mailto:cbryant@cmlawfirm.com)



IN THE STATE COURT OF GWINNETT COUNTY  
STATE OF GEORGIA

DENISE HARDY,

Plaintiff,

v.

MICHAELS STORES, INC.,

Defendant.

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CIVIL ACTION

FILE NO. 23-C-04480-S2

**DEFENDANT MICHAELS STORES, INC.'S**  
**DEMAND FOR TRIAL BY A JURY OF TWELVE PERSONS**

COME NOW MICHAELS STORES, INC., named as Defendant in the above-styled civil action, and file this Demand for Trial by a Jury of Twelve Persons pursuant to O.C.G.A. § 15-12-122(a)(2), which states as follows:

In all civil actions in the state courts in which the claim for damages is greater than \$25,000.00, either party may demand in writing prior to the commencement of the trial term that the case be tried by a jury of 12. If such a demand is made, the judge shall follow the procedures for superior courts of sub-section (b) of this Code section.

See also O.C.G.A. § 15-12-123(a)(2) which reads as follows:

In all civil actions in the state courts in which a jury of 12 is demanded, the judge shall follow the procedures for superior courts of sub-section (b) of this Code section.

WHEREFORE, demand is made for trial of this case by a jury of 12 as provided by law.

*[Signature contained on next page.]*

This 11th day of August, 2023.

**CRUSER, MITCHELL, NOVITZ,  
SANCHEZ, GASTON & ZIMET, LLP**



---

**CANDICE R. BRYANT**

Georgia Bar No. 807404

**J. ROBB CRUSER**

Georgia Bar No. 199480

*Counsel for Defendant*

Meridian II, Suite 2000  
275 Scientific Drive  
Peachtree Corners, GA 30092  
(404) 881-2622  
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[cbryant@cmlawfirm.com](mailto:cbryant@cmlawfirm.com)

**IN THE STATE COURT OF GWINNETT COUNTY  
STATE OF GEORGIA**

**DENISE HARDY,**

**Plaintiff,**

**v.**

**MICHAELS STORES, INC.,**

**Defendant.**

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**CIVIL ACTION**

**FILE NO. 23-C-04480-S2**

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that I have this day electronically filed the within and foregoing **DEFENDANT MICHAELS STORES, INC.'S DEMAND FOR TRIAL BY A JURY OF TWELVE PERSONS** with the Clerk of the Court via Odyssey e-filing system, which will automatically send electronic notification to the following counsel of record:

Clyde E. Rickard  
Jessica C. Nix  
Christopher Sandbach  
**THE LAW OFFICE OF RICKARD, DREW & NIX**  
229 Peachtree Street, N.E., Suite 2420  
Atlanta, GA 30303  
*Counsel for Plaintiff*

This 11th day of August, 2023.

**CRUSER, MITCHELL, NOVITZ,  
SANCHEZ, GASTON & ZIMET, LLP**



**CANDICE R. BRYANT**  
Georgia Bar No. 807404  
**J. ROBB CRUSER**  
Georgia Bar No. 199480  
*Counsel for Defendant*

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[cbryant@cmlawfirm.com](mailto:cbryant@cmlawfirm.com)

IN THE STATE COURT OF GWINNETT COUNTY  
STATE OF GEORGIA

DENISE HARDY,

Plaintiff,

v.

MICHAELS STORES, INC.,

Defendant.

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CIVIL ACTION

FILE NO. 23-C-04480-S2

**DEFENDANT MICHAELS STORES, INC.'S**  
**NOTICE OF FILING NOTICE OF REMOVAL**

**TO: Plaintiff DENISE HARDY, c/o her attorneys**

Pursuant to 28 U.S.C. § 1446(d), you are hereby notified that Defendant Michaels Stores, Inc. has filed a Notice of Removal of the above-styled action to the United States District Court for the Northern District of Georgia, Atlanta Division, a copy of which is attached hereto and by reference made a part hereof.

This 11<sup>th</sup> day of August, 2023.

**CRUSER, MITCHELL, NOVITZ,  
SANCHEZ, GASTON & ZIMET, LLP**



**CANDICE R. BRYANT**  
Georgia Bar No. 807404  
**J. ROBB CRUSER**  
Georgia Bar No. 199480  
*Counsel for Defendant*

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**IN THE STATE COURT OF GWINNETT COUNTY  
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**DENISE HARDY,**

**Plaintiff,**

**v.**

**MICHAELS STORES, INC.,**

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**CIVIL ACTION**

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Clyde E. Rickard  
Jessica C. Nix  
Christopher Sandbach  
THE LAW OFFICE OF RICKARD, DREW & NIX  
229 Peachtree Street, N.E., Suite 2420  
Atlanta, GA 30303  
*Counsel for Plaintiff*

This 11<sup>th</sup> day of August, 2023.

**CRUSER, MITCHELL, NOVITZ,  
SANCHEZ, GASTON & ZIMET, LLP**



**CANDICE R. BRYANT**  
Georgia Bar No. 807404  
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**IN THE UNITED STATES DISTRICT COURT  
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**DENISE HARDY,**

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**CIVIL ACTION**

**FILE NO. \_\_\_\_\_**

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orders and documents from the State Court Action have been attached as Defendant Michaels Stores, Inc.’s Exhibit 1 (hereinafter “D-1”).

2.

The present matter is an action for damages for bodily injuries stemming from a May 20, 2022 incident alleged to have occurred at Defendant Michaels Stores, Inc. retail store located at 1977 Scenic Highway North, Unit G, Snellville, GA 30078, (hereinafter “the subject incident”). D-1, Complaint, ¶ 2. Plaintiff makes claims against Defendant Michaels Stores, Inc. for (i) ordinary negligence and (ii) premises liability. *Id.*, Complaint, ¶¶ 4-6.

3.

The Complaint was filed June 28, 2023, in the State Court of Gwinnett County, Civil Action File No. 23-C-04480-S2. *See* D-1, Complaint. Defendant Michaels Stores, Inc. was served with the Summons and Complaint on July 13, 2023.

**DIVERSITY JURISDICTION UNDER 28 U.S.C. § 1332(a)**

4.

Upon information and belief, Plaintiff Denise Hardy is a citizen of the State of Georgia. Defendant Michaels Stores, Inc. is, and was at the time this lawsuit was filed, a corporation organized under the laws of the State of Delaware with its

principal place of business in the State of Texas. *Id.*, Complaint, ¶ 2. Therefore, there is complete diversity of citizenship between the parties.

5.

Plaintiff contends that “as a direct result of said negligence on the part of said Defendant, Plaintiff incurred damages of medical expenses, lost wages, and extensive physical pain and mental anguish.” D-1, Complaint, ¶ 5. Further, Plaintiff has alleged \$77,441.44 in total medical expenses, \$26,460.00 in lost wages and \$24,300.00 in future lost wages post-rotator cuff surgery for \$128,201.44 in total special damages. *Id.*, Complaint, ¶ 6.

6.

In determining whether the requisite \$75,000.00 amount in controversy has been established, jurisdiction “is proper if it is facially apparent from the complaint that the amount in controversy exceeds the jurisdictional requirement.” *Williams v. Best Buy Co., Inc.*, 269 F.3d 1319 (11th Cir. 2001). In the present case, given the damages claimed by Plaintiff, it is facially apparent from Plaintiff’s Complaint that the requisite \$75,000.00 amount in controversy requirement has been met.



**ALL PROCEDURAL REQUIREMENTS  
FOR REMOVAL HAVE BEEN SATISFIED**

7.

This Notice of Removal is filed within 30 days from the date that Defendant Michaels Stores, Inc. has been served with the Summons and Complaint in this matter. Removal is, therefore, timely in accordance with 28 U.S.C. § 1446(b).

8.

Pursuant to 28 U.S.C. 1446(b)(2)(A), “all defendants who have been properly joined and served must join in or consent to the removal of the action.” As such, Defendant Michaels Stores, Inc. expressly consents to the removal of this action and the requirements of 28 U.S.C. § 1446(b)(2)(A) have been met.

**CONCLUSION**

By this Notice of Removal, Defendant Michaels Stores, Inc. does not waive any objections they may have as to service, jurisdiction or venue, or any other defenses or objections they may have to this action. Defendant Michaels Stores, Inc. intends no admission of fact, law or liability by this Notice and expressly reserve all defenses, motions and/or pleas.

WHEREFORE, Defendant Michaels Stores, Inc. prays that the case be removed to the United States District Court for the Northern District of Georgia, Atlanta Division.

This 11<sup>th</sup> day of August, 2023.

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/s/ Candice R. Bryant

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*Attorneys for Defendant Michaels Stores,  
Inc.*

**CERTIFICATE OF COMPLIANCE**

Undersigned counsel certify the foregoing document has been prepared with one of the font and point selections (Times New Roman, 14 point) approved by the Court in Local Rule 5.1(C).

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that the undersigned has this day electronically filed the within and foregoing **DEFENDANT MICHAELS STORES, INC.'S NOTICE OF REMOVAL** with the Clerk of Court using the CM/ECF system which will send e-mail notification of such filing to the following attorneys of record:

Clyde E. Rickard  
Jessica C. Nix  
Christopher Sandbach  
THE LAW OFFICE OF RICKARD, DREW & NIX  
229 Peachtree Street, N.E., Suite 2420  
Atlanta, GA 30303  
*Counsel for Plaintiff*

This 11<sup>th</sup> day of August, 2023.

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